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PART II - MISCELLANEOUS NOTIFICATIONS OF INTEREST TO THE PUBLIC

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NOTIFICATIONS BY HEADS OF DEPARTMENTS Etc.,

DIRECTOR GENERAL
ANDHRA PRADESH SPECIAL PROTECTION FORCE
GUNTUR

APPEAL PETITION OF SRI D. RAJABABU, EX. HC-672 OF APSPF AGAINST THE PUNISHMENT OF REMOVAL FROM SERVICE - CANCELLATION OF PROCEEDINGS ISSUED ON 19.04.2018 CONSEQUENT UPON OBSERVATION OF HON'BLE HIGH COURT AT HYDERABAD.

Ref : 1. T.O. Proceedings Rc.No.APSPF/A3/PR/03/2017-18, O.O.No. 40/2018, Dated: 19.04.2018.

2. Hon'ble High Court of Andhra Pradesh and Telangana orders Dated: 28.06.2018 in C.C.No. 1489/2018.

3. Affidavit filed by DG, APSPF in High Court Dated 17th July 2018.

Rc. No. APSPF / A3 / PR / 03 / 2017-18, O.O.No.A-59 / 2018,- In the reference first cited, the appeal petition filed by Sri D. Raja Babu, Ex. HC-672 of APSPF against the punishment of Removal from Service was considered and rejected.

2) Consequent upon the rejection of appeal petition, the appellant i.e., Sri D. Raja Babu, Ex. HC-672 has filed a contempt case in Hon'ble High Court of Judicature at Hyderabad for the states of Andhra Pradesh and Telangana in C.C.No. 1489/2018. In response, Director General, AP Special Protection Force has filed an affidavit in High Court dated 17th July 2018.

3) While hearing the above contempt case the Hon'ble High Court has felt that Para No. 14 i.e., *"In this case the test for detecting misconduct is not whether the act or omission is committed in the course of the discharge of his duties as a government employee, but the test is whether the misconduct of charged employee has a reasonable nexus with the nature and conditions of his service"* and also Para no. 15 i.e., *"In the instant case, the appellant had made a series of baseless allegations against the Commandant who is appointing authority and as well as the Disciplinary Authority of a Head Constable working under him and also circulated these allegations to working members of SPF through social media such as Whatsapp and Facebook repeatedly. These acts certainly amount to "unbecoming of a government servant" and also amount to "gross violation of the conduct rules". By making false allegations, he made a desperate attempt to promote disaffection in the members of the force who are also members of the society, which posed a major threat to the discipline of the overall department particularly this is being an Armed Force of the State. Besides this, other articles purely pertain to the service matters of the department as already pointed out by the Hon'ble A.P.A.T."* are totally contrary to the directions issued by the Hon'ble Court in W.P.No.44414 of 2017 and on the subsequent date of adjournment i.e., 17.07.2018 the Hon'ble High Court observed orally to withdraw Paras No. 14 and 15 from the appeal rejection orders issued in the reference first cited.

4) Therefore, in obedience to the orders of the Hon'ble Court, the appeal rejecting proceedings issued in the reference first cited is hereby cancelled and fresh proceedings on the appeal petition of Sri D. Raja Babu, Ex. HC-672 dated: 07.08.2017 will be issued separately.

5) Acknowledge the receipt of these proceedings.

MADIREDDY PRATAP,

Director General,

*Andhra Pradesh Special Protection Force,
Guntur.*

Dated: 26-07-2018.

To

Sri D. Rajababu, Ex. HC-672, APSPF.

(Previously worked at AP Genco, Srisailem)

Address: R/o Patamallaipalem (V). Pattipadu (M), Guntur Dist, Pin: 522019.

APPEAL PETITION OF SRI. D. RAJA BABU, EX HC-672, APSPF AGAINST THE PUNISHMENT OF "REMOVAL FROM SERVICE" - CONSIDERED AND REJECTED.

- Ref : 1. Proceedings (Final Orders) Rc.No.APSPF/A3/PR/03/2017, O.O.No.205/2017, Date: 17.05.2017 of DIG, APSPF, Guntur.
2. Appeal Petition of the Individual Dated: 07.08.2017.
3. High Court of Judicature at Hyderabad order Dated: 6.2.2018 in WP No.44414 of 2017.
4. Proceedings Rc.No.APSPF/A3/PR/03/2017-18 O.O.No.40/2018 Dated: 19.04.2018 rejecting the appeal petition of individual.
5. Order of Hon'ble High Court of Judicature at Hyderabad Dated: 28.06.2018 in Contempt Case No. 1489 of 2018.
6. Proceedings Rc.No. APSPF/A3/PR/03/2017-18, O.O.No.A- 59/2018 Dated: 26.07.2018 cancelling the proceedings of even no. Dated: 19.04.2018.

Rc.No. APSPF/A3/PR/03/2017-18, O.O.No. A-60/2018,- In the reference first cited the disciplinary authority i.e., DIG, SPF, AP issued proceedings imposing the penalty of "Removal from Service" against Sri D. Raja Babu, Ex.HC-672 of SPF duly following CCA Rules 1991.

In the reference second cited above, aggrieved with the orders of Removal from Service, Sri D. Raja Babu, Ex.HC-672 has filed an appeal petition before the DG, SPF.

In the reference third cited the Hon'ble High Court while disposing off W.P.No.44414 of 2017 at the admission stage issued orders that the appellate authority shall take a decision on the appeal petition within four weeks keeping in view the fact that the *"allegations levelled by the petitioner against the senior officers are not related to his employment and discharge of his official duty"*

Accordingly in the reference fourth cited above, the DG, SPF, AP disposed off the appeal petition of Sri D. Raja Babu, Ex.HC-672, keeping in view the orders of the Hon'ble High Court of Judicature at Hyderabad, rejecting his appeal petition.

In the reference fifth cited the Hon'ble High Court while hearing the Contempt Case filed in C.C.No.1489 of 2018 by Sri D. Raja Babu, Ex.HC-672, made observation that Paras 14 and 15 in the appeal rejection order is totally contrary to the directions issued by the Hon'ble High Court and issued show cause notice as to why contempt proceedings may not be initiated against the undersigned and further directed the undersigned to be present in the Court on the next date of hearing of the Contempt Case. On 17.7.2018 the Hon'ble High Court observed orally to withdraw Paras-14 and 15 of the appeal rejection order Dated: 19.04.2018 since they are totally contrary to the directions issued by the Hon'ble High Court in its order dated 06.02.2018 in W.P.No.44414 of 2017.

Therefore, in obedience of the orders of the Hon'ble Court the appeal rejection order issued vide reference fourth cited above is cancelled so as to deal with the appeal petition and issue orders afresh basing on the merits keeping in view of the Hon'ble High Court directions and as well as CCA Rules 1991 in vogue.

In view of the foregoing, the appeal petition is being disposed off basing on the merits and also keeping in view the Hon'ble High Court orders in W.P.No.44414 of 2017.

Sri. D. Raja Babu, Ex HC-672, APSPF (Previously worked at AP Genco, Srisailam) preferred an appeal petition against the punishment of "Removal from Service" awarded by the Dy. Inspector General, APSPF, Guntur Vide reference second cited as the following Articles of charge framed against him were proved after following the due procedure laid down in APCS (CC&A) Rules, 1991:-

Article-I:

That the said Sri. D.Raja Babu, HC-672 of APSPF Unit, AP Genco, Srisailam has addressed a letter dated. 16.02.2017 to the Commandant, Rayalaseema Zone, Tirupati through AC, SPF, Srisailam with D.No.69/2017 in which he has levelled a baseless allegation against Sri B.V.Rami Reddy, Commandant, SPF that as per Commissioner and Registrar of Co. operative Societies, AP, Hyderabad in Rc.No. 11979-2010-PC4/ECCS Dated. 17.11.2012 he (Comdt) committed theft of Rs.24,48,666-00 from SPF ECCS Ltd., and because of which he could not arrange proper studies to his children and could not arrange medicines to his

old aged parents. In fact the above referred letter categorically states that the DLCO, Golconda Division has passed surcharged order for an account of Rs.4,78,302/- against Sri T. Seetaramulu, Ex-Treasurer of APSPF ECCS Ltd., Hyderabad U/s 79(a) and 83 of APCS Act, 1964. But whereas the said HC made allegation against the Commandant, Hqrs, Tirupathi without submitting any proof.

Article-II:

That the said Sri D.Raja Babu, HC-672 has further made an allegation against the Commandant that he has suspended a person at Alipiri Check Post for taking Rs.30/- but the Commandant has committed theft of Rs.24,48,666/- pertaining to SPF personnel. But there is no suspension order against the Commandant. Therefore, he is questioning the Commandant. In support of this allegation, he failed to submit any proof.

Article-III:

That the said Sri D.Raja Babu, HC-672 of APSPF Unit, AP Genco, Srisailam has made an allegation that Sri M.Sankara Rao, AC, P.Srinivasulu Reddy, RI, A.Srinivasulu, ASI-847 and Sri B.V. Rami Reddy, Commandant intentionally issued P.R to him on 25.10.2016. In fact the said HC was imposed with a penalty of "Withholding of Increment for a period of one year without effect on future increments" for misbehaving with the ASI, A.Srinivasulu in P.T on 25.10.2016 that to, after conducting a preliminary enquiry. Therefore, this allegation is completely baseless and it is made in order to blame the senior officers.

Article-IV:

That the said Sri D.Raja Babu, HC-672 of APSPF Unit, AP Genco, Srisailam has made another allegation that SPF Senior Officers could not do anything against Sri B.V.Rami Reddy who committed misappropriation of Rs.24,48,666/- and there is no limit to his corrupt activities. In support of this allegation, he failed to submit any proof.

2) Aggrieved with the above orders, Sri D.Raja Babu, Ex HC-672 has submitted an appeal petition to the Director General, APSPF, Guntur with a request to set-aside the above penalty vide reference second cited. He has repeated his allegations against the Commandant and others regarding Co-operative society issues that happened in 2006 and also on other matters. These allegations indeed appeared in Articles of Charge. These articles of charge were enquired into as per the due procedure giving adequate opportunity to the Appellant to prove his innocence through documents and witness if any. During the course of enquiry, the Appellant failed to produce any evidence. Also the Appellant did not cross-examine the Commandant against whom he made allegations of misappropriation etc., when he was given the opportunity during the course of Enquiry. Therefore, the enquiry officer has clearly found the allegations made by the appellant against his superiors are baseless and untruthful.

3) The order of DIG APSPF / Disciplinary Authority vide reference first cited has clearly brought out these facts in Para's 9(a) (b) (c) (d) (e)'and 9(1). There is no need to repeat these proved facts again just because the Appellant repeated his allegations in his Appeal without furnishing any evidence as to how the findings of the enquiry officer are wrong.

4) The Appellant said that his request to issue a Telugu translated copy of the charge memo was rejected, since no where it is envisaged in the CCA Rules of 1991 to supply translated copies to the charged officer in Telugu; as he himself submitted present appeal petition in English containing 5 pages. Therefore, this objection is not valid.

- 5) Regarding his ground that the E.O was directly functioning under Sri B.V. Rami Reddy and therefore was biased is not correct as there is no prohibition in the CCA Rules for making such an appointment, besides being an afterthought, since no such objection was taken during the pendency of the proceedings before the enquiry officer.
- 6) Regarding his allegation that he was not given a reasonable opportunity, records show that Appellant has signed all the papers and every opportunity was given to the Appellant by the Enquiry Officer in accordance with the rules and procedure during the course of the Oral Enquiry. Therefore, this objection is not valid.
- 7) Records show that after attempts to serve on charged officer failed, the same was published in the AP Gazette as per the procedure laid down under Rule 42 of CCA Rules. There is nothing wrong in publishing in AP Gazette.
- 8) The Hon'ble High Court of Judicature at Hyderabad while disposing the WP No: 44414/17 made it clear that the second respondent i.e., DG, SPF, AP shall take a decision keeping in view the fact that *"the allegations levelled by the petitioner against the senior officers are not related to his employment and discharge of his official duty."*
- 9) Further the Appellant has stated that the department cannot frame a charge against him in a departmental enquiry as the matter relates to the Employees Credit Cooperative Society and the allegations have nothing to do with his duties in the department.
- 10) There are 4 Articles of Charge and all of them were proved beyond any reasonable doubt. Even the Apex Court while dealing such cases delivered judgements as the Hon'ble Court relied on the observations made by Lopes, L.J. in Pearce. V Foster, (1886) 17 QBD 536 at p.542:- (S.Govinda Menon Vs. Union of India, reported in AIR 1967 SC 1274 at Para 6)

"If a servant conducts himself in a way inconsistent with the faithful discharge of his duty in the service, it is misconduct which justifies immediate dismissal. That misconduct, according to my view, need not be misconduct in the carrying on of the service or the business. It is sufficient if it is conduct which is prejudicial or is likely to be prejudicial to the interests or to the reputation of the master, and the master will be justified, not only if he discovers at the time, but also if he discovers it afterwards, in dismissing that servant."

- 11) In fact the appellant was charge sheeted for violating Rule-3 of APCS(Conduct) Rules 1964 and Rule-3 says;

Rule 3(1): Every government employee shall be devoted to his duty and shall maintain absolute integrity, discipline, impartiality and a sense of propriety.

Rule 3 (2): No government employee shall behave in a manner which is unbecoming of such employee or derogatory to the prestige of Government.

Rule 3 (3): No Government employee shall act in a manner which will place his official position under any kind of embarrassment.

- 12) Further some judicial decisions have been referred in the CCA Rules Book which is reproduced below:-

“What is “unbecoming” or “misconduct”:- Rule 3 requires that a. Government servant shall do nothing which is unbecoming of a Government servant. It is for the employer to consider reasonably what conduct should, be treated as misconduct. No general rule in this behalf can be laid down. Agnani vs. Badri Das and others, (1969) ILLJ SC 684.

Misconduct in Private Life:- “The rule of law is that where a person has entered into the position of servant, if he does anything incompatible with the due or faithful discharge of his duty to his master, the master has a right to dismiss him. The relation of master and servant implies necessarily that the servant shall be in a position to perform his duty duly and faithfully, and if by his own act he prevents himself from doing so, the master may dismiss him..... what circumstances will put a servant into the position of not being able to perform in a due manner his duties, or of not being able to perform his duty in a faithful manner, it is impossible to enumerate. Innumerable circumstances have actually occurred which fall within that proposition, and innumerable other circumstances which never had yet occurred will occur, which also will fall within the proposition. But if a servant is guilty of such a crime outside his service as to make it unsafe for master to keep him in his employ, the servant may be dismissed by the master, and if the servant's conduct is so grossly immoral that all reasonable men would say that he cannot be trusted, the master may dismiss. If a servant conducts himself in a way inconsistent with the faithful discharge of his duty in the service, it is misconduct which justified immediate dismissal. That misconduct need not be misconduct, in the carrying on the service of the business. It is sufficient if it is conduct which is prejudicial or is likely to be prejudicial to the interests or to the reputation of the master”.

13) in the case on hand, the Appellant had not only made baseless allegations against the Commandant who is Appointing Authority and as well as the Disciplinary Authority but also circulated these allegations to working members of SPF through social media such as Whatsapp and Facebook repeatedly. Though these acts are outside the discharge of his official duties they certainly amount to unbecoming of a government servant in as much as he undermined the position of the Appointing Authority/Disciplinary Authority. By making the said allegations, he made an attempt to spread disaffection among the members of the force who are also members of the society, which posed a threat to the discipline of the overall department which happens to be an Armed Force of the State.

14) The Appellant was removed from service as all the 4 (FOUR) ARTICLES OF CHARGE were proved beyond any reasonable doubt following the due procedure as laid in CCA rules. The articles of charges proved violate conduct rules prescribed for Government Servants and therefore, the DIG, APSPF has imposed punishment that he deemed just and appropriate.

15) I have also looked at his Service Book that shows he beat Inspector, his superior officer, with a belt in public. This misbehaviour was proved after due enquiry, a punishment was awarded. And further he has the following punishment rolls pending.

16) A PR Vide Rc.No.A3/ 101/PR-04/Comdt-VJA/APSPF/2017/605 of Addl. Commandant, SPF, Vijayawada is pending under Rule-20 of CCA Rules for misbehaving with two Sub-Inspectors at Srisailam on 27.03.2017.

17) Another PR under Rule-22 of CCA Rules for giving statement to Saakshi Telugu daily on 25.04.2017 against the senior officers by violating conduct rules; for circulating posters containing all fabricated and baseless allegations against SPF officers in social media (Whats App, Face book).

18) APSPF is a disciplined armed force raised to protect vital installations in the state such as High Court of A.P, State Assembly, State Secretariat, TTD temple, Bank Currency Chests, ONGC, RIL and AP Genco etc. Writing letters with false and baseless allegations and spreading disaffection using electronic means on his superior officers, being a member of this force certainly amounts to transgression of basic norms of code of conduct as inscribed in CCA rules, 1991. If any leniency is shown in this case, there will be irreparable damage to the maintenance of discipline of this Armed Force.

19) In view of the above grounds, I do not find any reason to interfere with the orders passed by the disciplinary authority. Hence the appeal petition is considered and rejected.

20) Acknowledge the receipt of these proceedings.

MADIREDDY PRATAP,

Director General,

*Andhra Pradesh Special Protection Force,
Guntur.*

Dated: 26-07-2018.

To

'Sri D. Raja Babu, Ex HC-672, APSPF.

(Previously worked at AP Genco, Srisailam)

Address: R/o Patamallaipalem (V), Pattipadu (M), Guntur Dist, Pin: 522019.

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